

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 October 2021

Public Authority: Meadowfield School
Address: Swanstree Avenue
Sittingbourne
Kent
ME10 4NL

Decision (including any steps ordered)

1. The complainant has requested information relating to safeguarding at Meadowfield School.
2. The School refused to comply with the request under section 14(1) (vexatious requests) of the FOIA.
3. The Commissioner's decision is that the request was vexatious and therefore the School was entitled to rely upon section 14(1) to refuse it.
4. However, the School has breached section 17(5) (refusal of request) in failing to issue a refusal notice in response to the request within 20 working days.
5. The Commissioner does not require any further steps to be taken to ensure compliance with the legislation.

Request and response

6. On 11 December 2020 the complainant wrote to the School and requested information in the following terms:

"I am writing to you under the Freedom of Information Act 2000 to request the following information:

- a copy of any report or reports into safeguarding at Meadowfield School completed following [Redacted] visit in October 2020

- please include any written report or advice from [Redacted] and any other written assessments of safeguarding at the school, regardless of author.

- any documentation outlining the school's response to such reports."

7. The complainant did not receive a response to their request and chased the matter on 1 February 2021.
8. On 11 February 2021 the School responded, citing section 14.
9. The complainant requested an internal review on 17 February 2021.
10. The School responded on 22 February 2021 and confirmed that it would not correspond with the complainant regarding this matter any further. The School did not conduct an internal review into its handling of the request.

Scope of the case

11. The complainant contacted the Commissioner on 28 February 2021 to complain about the way that their request for information had been handled.
12. The Commissioner therefore considers the scope of her investigation to be to determine whether the School was entitled to rely upon section 14(1) to refuse the request.

Reasons for decision

Section 14 – vexatious requests

13. Section 1(1) of the FOIA states that:

"Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him."*

14. Section 14 of the FOIA states that:

"Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious."

15. The term 'vexatious' is not defined within the FOIA. The Upper Tribunal considered the issue of vexatious requests in *Information Commissioner v Devon CC & Dransfield* [2012] UKUT 440 (AAC). It commented that 'vexatious' could be defined as the '*manifestly unjustified, inappropriate or improper use of a formal procedure*'. The Upper Tribunal's approach in this case was subsequently upheld in the Court of Appeal.
16. The Dransfield case considered four broad issues: the burden imposed by the request (on the public authority and its staff), the motive of the requester, the value or serious purpose of the request and harassment or distress of and to staff. A public authority may take these factors into account when considering if a request is excessive.
17. The Dransfield definition confirms that it is important to consider proportionality and justification of any request before deciding it is vexatious.
18. The Commissioner has published guidance on the factors that may typify a vexatious request¹. However, it is important to note that even if a request contains one or more of these indicators it will not necessarily mean that it must be vexatious and the request must be considered alongside the value and purpose that the request may hold.
19. When considering the question of vexatiousness, a public authority can consider the context of the request and the history of its relationship with the requestor, as the guidance explains: '*The context and history in which a request is made will often be a major factor in determining whether the request is vexatious, and the public authority will need to consider the wider circumstances surrounding the request.*'
20. In some cases it will be obvious when a request is vexatious but in others it may not. The Commissioner's guidance states: '*In cases where the issue is not clear-cut, the key question to ask is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.*'
21. It is important to remember that section 14(1) can only be applied to the request itself, and not the individual who submits the request.

The complainant's position

22. At the time of raising their concern with the Commissioner, the complainant stated their position. To summarise, whilst the

¹ [dealing-with-vexatious-requests.pdf \(ico.org.uk\)](https://ico.org.uk/dealing-with-vexatious-requests.pdf)

complainant's child was a pupil at the School, the complainant attempted to raise several safeguarding concerns. [Redacted]

23. The complainant states that they raised these concerns through the normal channels but both the School and Board of Governors were unresponsive. Therefore the complainant raised their concerns with the local authority. The complainant withdrew their child from the School.
24. Following this, the School carried out a safeguarding review. The complainant is concerned that the School originally promised to provide them with a copy of this safeguarding review but failed to do so. [Redacted].
25. The complainant is concerned with the way in which their original safeguarding concerns, and request under the FOIA, have been dealt with. The complainant believes that staff at the School are upset that the complainant raised their concerns with the local authority.
26. The complainant insists that their request for information has been made out of concern for the pupils at the School. The complainant notes that the School teaches pupils with special educational needs and disabilities (SEND).
27. During the course of her investigation the Commissioner wrote to the complainant and invited any further arguments in support of their position. The complainant did not provide any further arguments.

The School's position

28. Ultimately, it does not fall upon the complainant to explain why the request is not vexatious; rather the burden falls upon the public authority to explain why the request is vexatious.
29. At the time that this case was accepted for investigation by the Commissioner, the School provided supporting information in relation to its position. When the Commissioner's investigation began, the School provided further information that supported its position.
30. The School explained that the request represents a misuse of the FOIA as the complainant has already been provided with a copy of the report in question by two individuals: the author of the report and an Education Officer within the local authority. The School also explained that the other information that falls within the scope of this request is readily

available on the it's website.² The School considers this evidences the complainant has no obvious intent to obtain information.

31. The School is concerned that the wider background and history in relation to the request is paramount in understanding why it is vexatious. In September 2020 the complainant was dissatisfied with their child's placement within the School and sought an early annual review³ without entering into any dialogue with the School.
32. The School believes that this class allocation ignited the complainant's obsession with the performance of the School. The complainant has made repeated serious allegations relating to the School, the Principal and the Board of Governors. The Commissioner does not consider it necessary to provide any further detail relating to these allegations though she notes a central theme of safeguarding runs throughout.
33. The School has explained that these allegations have been made to multiple bodies including Ofsted, the Department for Education (DfE) and the local authority and its councillors.
34. The complainant's numerous complaints to Ofsted resulted in a No Formal Designation Inspection⁴ at the School. The outcome of inspection marks safeguarding at the School as effective.
35. A further independent safeguarding review which is referenced in the complainant's request found that the Senior Leadership Team and the Safeguarding Team at the School were committed to the welfare of their pupils.
36. The School is concerned that the pattern here is the complainant regularly disregards the outcomes, views and feedback of the experts to whom they complain. The School believes that the complainant's request represents unreasonable persistence and is an attempt to reopen issues that have already been extensively addressed. The School notes that the complainant has indicated that they will continue to raise concerns with Ofsted and the DfE.
37. The School considers all allegations that the complainant has made are unfounded and unsubstantiated. Furthermore, the School has made its

² [50165034 \(ofsted.gov.uk\)](https://www.ofsted.gov.uk/inspection/50165034)

³ [Education, health and care plan annual reviews - Kent County Council](#)

⁴ [Inspections of schools with no formal designation guidance for inspectors.pdf \(publishing.service.gov.uk\)](#)

own allegations regarding the complainant's conduct [Redacted]. The Commissioner does not consider it necessary to provide details of these allegations within this decision notice.

The Commissioner's view

38. It is clear to the Commissioner that the relationship between the complainant and the School has broken down. For clarity, it is not the role of the Commissioner to adjudicate or comment on the allegations that both parties have made against the other. It is solely the Commissioner's role to consider if the request was vexatious.
39. As discussed previously, in some cases it will be obvious when a request is vexatious but in others it may not. When the Commissioner is provided with differing version of events, this can complicate matters. For example, there are conflicting accounts as to whether the complainant was allowed to pursue their concerns through the School's own complaint's procedure.
40. Essentially, section 14 absolves a public authority of its duty to respond to a request altogether. Therefore, the bar for engaging such an exemption is high.
41. On the one hand, the Commissioner acknowledges that to provide the requested information, or a refusal notice under section 21 (Information accessible to applicant by other means), would not be particularly burdensome to the School. She notes that the School has not tried to make this argument.
42. The Commissioner also notes that the complainant has, prior to the request that is the subject of this notice, made two requests for information under the FOIA. The School has not specified to the Commissioner if these requests were also on the subject of safeguarding or the timeframe in which these three requests were made. Again, three requests under the FOIA does not seem excessive to the Commissioner.
43. However, the purpose of section 14 is to absolve a public authority from responding to an abuse of the FOIA, even if it would be easy to do so.
44. When considering if a request is vexatious a public authority does not have to consider a request in isolation. The Commissioner recognises the cumulative effort that the School, individuals, various agencies and offices have all put into addressing the complainant's concerns. Having reviewed the School's supporting information in relation to this matter, the Commissioner sees the burden that the complainant's allegations have caused.
45. The Commissioner recognises the importance of the reporting and effective investigating of safeguarding concerns especially with regard to

SEND pupils. She also recognises how hard parents of SEND pupils may have to fight to achieve results for their child.

46. The complainant is allowed to hold an opinion relating to the effectiveness of the School. However, the Commissioner must consider if the request attempts to raise repeat issues which have already been fully considered by independent authorities – the findings of which have refuted the complainant's concerns.
47. The Commissioner considers that the request does so and therefore she believes the request was vexatious. Whilst the complainant clearly had purpose behind the concerns that they raised in June 2020, it could be argued that the purpose behind the request has diminished with each independent scrutiny of the School's safeguarding processes.
48. The complainant themselves has noted the purpose behind their request is to ensure the safety of the pupils at the School. The Commissioner recognises that there may be some public interest in the requested information, specifically from parents' of pupils at the School. However, the Commissioner also notes that the School has a robust process in place for investigating safeguarding concerns.
49. Whether the complainant is or is not in possession of the requested information, the purpose behind the request seems to have been obtained: safeguarding concerns have been repeatedly investigated and no cause for concern found.

Section 17 – refusal of request

50. Section 17(5) of the FOIA states:

'A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.'

51. The School failed to inform the complainant within 20 working days that it was relying on or section 14 to refuse the request. The Commissioner therefore finds that the School has breached section 17(5).

Other matters

-
52. The Commissioner notes the School's refusal to conduct an internal review into its handling of this request. The Commissioner acknowledges that an internal review is not statutory under the FOIA.

53. However, the Commissioner would always recommend that a public authority conducts an internal review into its handling of a request to ensure it has been dealt with appropriately.
54. The Commissioner guidance stresses *'the public authority should recognise the importance of the internal review stage, as this will be its last remaining opportunity to thoroughly re-evaluate, and, if appropriate, reverse the decision without the involvement of the ICO.'*

Right of appeal

55. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

56. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
57. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Alice Gradwell
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF